

**PALM LAKE HOMEOWNERS ASSOCIATION**

**BOARD OF DIRECTORS**

**MEETING MINUTES**

**DECEMBER 14, 2021**

The meeting was called to order by President Ned Timmer at 7:06 pm.

Board members present: Ned Timmer, Mike Ketchum, Steve Hunter, Marty Crosley and Fred Lenz

Others present: Eryn McConnell, PLHOA legal counsel, Mateer Harbert law firm

President Timmer re-ordered the published agenda in order to permit PLHOA Legal Counsel Eryn McConnell to appear first to present and explain a series of proposed covenant changes under consideration by the Board. As a point of information, the proposed amendments resulted from meetings of Board members with legal counsel in recent months that were prompted by concerns arising over the adequacy of protections in certain areas of our existing governing documents and the desire to strengthen enforcement capability for serious covenant violations which might occur.

Ms. McConnell presented the covenant changes in two sets: (1) a needed "housekeeping" measure allowing the PLHOA to assume the rights and responsibilities from the original Palm Lake developer, Paul Curtis Realty, Inc., and (2) revising the current poorly drafted covenant verbiage pertaining to land use and rentals while also providing further protection from a growing trend seen in the U.S. and Florida of legal entities being created to purchase upscale homes to permit a shared ownership for the use of multiple investors.

Following McConnell's presentation, in response to a Board member's question she confirmed that past Palm Lake boards had incorrectly applied and thus not fully adhered to the covenant provisions regarding rentals. She further stated "Lease-purchase" arrangements are considered by law to actually be rentals.

This assertion prompted a discussion and exchange of views regarding both past and present rental and "lease-purchase" practices in Palm Lake. Fred Lenz stated his opposition to a number of the proposed covenant change provisions and advocated adding language to the proposals that would permit a "lease-purchase" option in Palm Lake that would effectively overturn the current covenant prohibition against them. Reservations were expressed by legal counsel and the other board members who felt doing so would seem to negate or conflict with the intent of the proposed covenant changes drafted by legal counsel at the board's request. The crafting of a lease-purchase option that would not be confusing or likely lead to one or both proposals failing to pass was seen as difficult to accomplish. It was explained their non-passage would then have the effect of still leaving intact the current rental/lease-purchase prohibition found in the Palm Lake covenants but could also have the potential effect of leaving Palm Lake unprotected from the shared ownership threat. A board member observed that in view of the overwhelming past support seen at the 2020 annual meeting to strictly regulate and discourage lease-purchases, that prior to directing legal counsel to attempt to draft a lease-purchase

option, a straw poll would first be made to gauge the level of PLHOA interest in and support of lease-purchase options in the future.

With the discussion concluded, four board members evidenced with their remarks comfort in moving forward with the proposed changes for a final review before instructing legal counsel to pursue preparation of the written consent package to be voted upon in early 2022 by PLHOA members. The package will also include what is known in legal terms as a "Chattel Shipping" letter which states the board, despite any prior lack of enforcement, places the HOA on notice it will enforce future violations consistently and fairly. The letter will also permit the continuance of the two current rental/lease-purchase homes until the conclusion of their respective agreements during 2022.

Ms. McConnell departed the meeting and the published agenda resumed.

#### **SECRETARY'S REPORT**

Mike Ketchum presented the minutes from the November 17, 2021 Board of Directors Meeting. A motion was offered and seconded to approve the minutes. The motion carried without objection.

#### **ARB REPORT**

Steve Hunter discussed several responses received from the recent ARB fall letter to the PLHOA which introduced the ARB plan to address violations and aesthetics throughout Palm Lake on a blanket basis. Among the responses received were concerns regarding damages that might result from requiring roof cleaning coupled with the frequent unavailability of replacement tiles and the presence of faded artificial flowers at residences. Other responses received centered on speeding cars, proper lawn maintenance, visibility of garbage cans and unacceptable noise levels at certain homes during the hours that the HOA has deemed as quiet hours (between the hours of 9 pm to 8 am on weekdays and 10 pm to 8 am on weekends). The Board was also concerned over the time it is taking to make the repairs on the home that received recent fire damage. With respect to the latter, Fred Lenz will contact the homeowner to learn further regarding the timing and plan for repairs.

A discussion followed with views exchanged on ways to gain a consensus on the priorities for ARB enforcement. A suggestion was voiced to seek neighborhood feedback at the 2022 PLHOA annual meeting on what areas should be emphasized as ARB enforcement priorities.

Hunter presented an ARB document outlining several enforcement options. Following discussion, it was determined the best option, as opposed to the utilization of a Fining Committee, was to use "Legal Action" as a last resort should a series of "friendly" steps and procedures to gain compliance not be successful. This matter will be further discussed at the 2022 annual meeting.

Timmer next provided an update on the ongoing enforcement actions taken at Lot 6. Previously, due to the homeowner's non-payment of the PLHOA Buffer Wall Special Assessment and the refusal to clear vegetation from the Buffer Wall in their yard along with refusing access for the PLHOA vendor to conduct the needed wall repairs, the Board had turned the issue over to the PLHOA legal firm who

placed a lien on the home in order to collect the \$4,121.69 owed by the homeowner to the PLHOA. Included in the remedy of the legal action were two continuing covenant violations and attorney's fees coupled with various additional fees and accrued interest. Timmer reported the homeowner had offered a payment of \$2,500 to settle the matter and had further agreed to clear the vegetation and repair the perimeter wall. The Board considered the offer, and in recognition of its fiduciary responsibility, agreed without objection to reject the payment offer. While the homeowner is free to remove vegetation on the wall, the wall repair must be done by the current wall repair vendor who is a licensed contractor. The discussion was followed by a motion offered and seconded to request PLHOA legal counsel to advise the homeowner's counsel of the Board's payment offer rejection and its intention to proceed with a foreclosure action on the lien. The motion carried without objection.

### **OPERATIONS REPORT**

Fred Lenz reported the "socks" are in place to trap at the street gutters the falling leaves. He strongly encouraged neighbors to assist in keeping their curb areas free of leaf accumulation.

Lenz added that tree trimming will get underway during the first week of January with \$3,800 being the projected cost. The vendor will also be available to undertake additional tree trimming work for individual homeowners if desired.

Concerns over the working of the entrance gate arm were also noted by Lenz saying "We are on borrowed time."

### **TREASURER'S REPORT**

Marty Crosley shared that all homeowners (excepting one) were current with their Special Assessment obligations for the Buffer Wall repair. He presented for Board review the PLHOA financials which included the Balance Sheet and Profit and Loss Budget vs. Actual.

Crosley will shortly be mailing invoices for the 2022 PLHOA annual dues. At this point the dues will be set at \$1,650 since the budget must be finalized prior for presentation at the annual meeting. It was noted approval of an upward adjustment in dues will need to be considered at the annual meeting.

### **OLD BUSINESS**

Ned Timmer reviewed the options available to the PLHOA with respect to finalizing the 2022 budget. He began by noting that the current landscaping vendor will be terminated shortly due to his continuing poor performance. A new vendor has been secured at an additional cost which will necessitate a dues increase in 2022 from \$1,650 to \$1,875. The new vendor will assume a large portion of the landscaping duties currently handled by PLHOA volunteers who have indicated they regrettably will be no longer be able to continue performing certain landscaping tasks in 2022.

In the event the dues increase is not approved, Timmer indicated the Reserves Account would need to be utilized to fund the shortfall. A Special Assessment was not felt to be the best option. Discussion then turned to the advisability of changing a covenant amendment that was approved in 2003 by reinstating the previous authority that was granted the board to increase the dues up to 25% over the

previous year without PLHOA approval. The board agreed to prepare an amendment allowing this and will consider whether to seek its approval in 2022 along with the other proposed amendments discussed.

Timmer concluded by relating his recent conversation with a Duke Energy representative regarding replacement of the damaged trees along the west perimeter wall. The individual was helpful and indicated they would attempt to identify a solution in a few weeks.

The meeting was adjourned at 10:07 pm.

Respectfully submitted,

Mike Ketchum, Secretary